



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Denver, CO 80202-1129
Phone 800-227-8917
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September 28, 2020
Ref: 8ENF-AT

SENT VIA EMAIL
DIGITAL READ RECEIPT REQUESTED

Cheyenne Diesel Repair, LLC
Dale Hill, President
6439 Emily Drive
Cheyenne, WY 82009
cheyennediesel@gmail.com

Re: Request for Information Pursuant to Clean Air Act Section 208

Dear Mr. Hill:

With this Request for Information, you are required to provide the U.S. Environmental Protection Agency with information relating to Cheyenne Diesel's business. The EPA is seeking information to determine whether Cheyenne Diesel is in compliance with the requirements of sections 203(a) and 213(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations promulgated under Title II of the CAA.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. 7542(a). Under Section 208(a), the EPA may require any person who is subject to Title II of the CAA to provide information necessary to determine whether the person is in compliance with these requirements and the regulations promulgated thereunder.

You must submit your responses as set out in the attached enclosures: Instructions (Enclosure A), Definitions (Enclosure B), Request for Information (Enclosure C), Claiming Confidentiality (Enclosure D), and Statement of Certification (Enclosure E), Spreadsheet for Responses to Request 5 (Enclosure F).

Your responses are required to be submitted within **30** calendar days from the date you receive letter. If you are unable to fully respond to this Request for Information within 30 days, you must contact Steven Hine at Hine.Steven@epa.gov to request an extension. Any request for extension should be made in writing as soon as possible, must explain why an extension is necessary, and must include a proposed timeline for completing the requested information. The EPA will review your request and may grant request in writing if the EPA determines that you have demonstrated good cause for needing an extension.

Failure to provide the requested information is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant

to section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); or (4) any other action authorized under the Act. There are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information (CBI) regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. See Enclosure C for CBI claim requirements. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please be advised that some companies may qualify as a “small business” under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). To help small business owners assess their small business status, the U.S. Small Business Administration (SBA) has established a Table of Small Business Size Standards, which can be found at:

http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf. If Cheyenne Diesel qualifies as a small business, please review the SBREFA Information Sheet designed to provide information on compliance assistance to entities that may qualify as small businesses as well as to inform them of their right to comment to the SBREFA Ombudsman concerning EPA enforcement activities.

The SBREFA Information Sheet can be found at:

<http://nepis.epa.gov/Exe/ZyPDF.cgi/P100BYAV.PDF?Dockey=P100BYAV.PDF>. Please be aware that SBREFA does not eliminate Cheyenne Diesel’s responsibility to respond in a timely fashion to any complaint or request for information that EPA may issue or other enforcement action that EPA may take, nor does SBREFA create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman. If you are unable to access the links provided or need a hard copy, please contact Steven Hine, the Enforcement Officer listed below.

Please provide all requested information, via electronic delivery, to Steven Hine at Hine.Steven@epa.gov.

The response to this Request for Information must be accompanied by Enclosure E: Statement of Certification, which certifies that the response submitted to the EPA is complete and contains all responsive documents and information that are known to you, following a complete and thorough review of all available information and sources. Please print, sign, scan, and return this form electronically with the rest of the information requested.

The EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, we will consider your specific circumstances in determining an appropriate timeline for responding to this Request for Information, while still ensuring that the Agency receives the information it needs to timely confirm your company’s compliance with the Act.

If you have any questions regarding this Request for Information, please contact Steven Hine at (303) 312-6624 or Hine.Steven@epa.gov.

Sincerely,

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

Enclosures: Enclosure A: Instructions
Enclosure B: Definitions
Enclosure C: Request for Information
Enclosure D: Confidential Business Information
Enclosure E: Statement of Certification
Enclosure F: Spreadsheet for Responses to Request 5

ENCLOSURE A

Instructions

1. Provide a complete, detailed response, in English, to each Request for Information in Enclosure C.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Provide your response to all questions of this Request for Information in electronic form. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Provide your responses to Request 5 from Enclosure C into the attached Excel spreadsheet (Enclosure F).
5. Identify each person whom you relied on or consulted with in preparing your responses to each question. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request for Information requires or allows documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response are not in your possession, custody, or control, indicate in your response why these documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess this information.
9. You must promptly supplement your response to any Request in Enclosure C if you gain possession, custody, or control of responsive information after responding to this Request for Information.

ENCLOSURE B

Definitions

All terms used in this Request for Information will have their ordinary meaning unless the terms are defined below, in the CAA, 42 U.S.C. §§ 7401 *et seq.*, or in the Motor Vehicle and Non-Road regulations, including those definitions at 40 C.F.R. parts 85, 86, 89, 90, 1036, 1037, 1039, 1048, 1051, and 1068, in which case they shall have their meanings as defined therein.

1. The term “catalysts” refers to systems, such as catalytic converters or diesel oxidation catalysts (DOCs), that contain parts or chemical elements which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless-steel housing.
2. The term “diesel particulate filter” or “DPF” refers to an exhaust after-treatment emission control component that physically traps particulate matter (PM) and removes it from the exhaust stream, typically using a porous ceramic or cordierite substrate or metallic filter.
3. The term “electronic control module” or “ECM” (a/k/a “engine control unit” or “ECU”) means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the engine control module, onboard diagnostics control modules, powertrain control module (“PCM”), transmission control module (“TCM”), body control module (“BCM”), and aftertreatment control module.
4. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

Examples of emission related parts include, but are not limited to, the diesel oxidation catalyst (DOC), the diesel particulate filter (DPF), the selective catalytic reduction (SCR) system, the NO_x adsorber catalyst (NAC) system, the exhaust gas recirculation (EGR) system, the on-board diagnostic (OBD) system, the ECM, and stock air/fuel related calibrations.

5. The terms “engine derate” or “limp-home mode” means an ECM mode that reduces the engine power after the OBD system identifies a problem with an emission-related system.

6. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
7. The term “engine tuner” or “tuner” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information stored within or used by an ECM. Other terms used for these devices or products include, but are not limited to, programmers, modules, ECM calibration tools, replacement ECMs, flash tools, diagnostic devices, or engine management products.
8. The term “exhaust gas recirculation” or “EGR” refers to an emission control component that directs a portion of engine exhaust back into the engine’s combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (NO_x). The EGR system may include a cooler, which cools the recirculated exhaust.
9. The term “Exhaust Product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and includes, but is not limited to, EGR block plates, EGR delete kits, exhaust replacement pipes, and straight pipes.
10. The term “NO_x adsorber catalyst” or “NAC” means the strategy for controlling NO_x emissions from partial lean burn gasoline engines and from diesel engines, by means of a periodic process of adsorbing the NO_x emissions on the NAC during lean combustion and regenerating the NAC by short richer than stoichiometric combustion.
11. The term “onboard diagnostics” or “OBD” refers to an ECM that monitors emission control and emission-related components and systems along with certain engine components, such as the fuel delivery system and the engine control module. When the OBD detects a malfunction or deterioration that could affect emissions, it illuminates a malfunction indicator light (MIL) and produces diagnostic trouble codes (DTC) to aid in repair.
12. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
13. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, engine tuner, device, part, or component.
14. The term “selective catalytic reduction” or “SCR” refers to an emission control component that includes systems (the diesel exhaust fluid (DEF) tank, urea quality sensor, DEF injection system, SCR catalyst(s), and other associated sensors), which inject a reductant, such as DEF, into the exhaust stream where it reacts with catalysts to convert NO_x emissions to nitrogen gas (N₂) and water (H₂O).
15. The term “tuning product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information stored within or used by an ECM. Tuning products

include, but are not limited to, programmers, modules, tuners, tunes, tune files, calibrations, ECM calibration tools, replacement ECMs, flash tools, or engine management products.

ENCLOSURE C

Request for Information

Cheyenne Diesel Repair, LLC (“Cheyenne Diesel” or “you”) must submit the following information to the EPA pursuant to Section 208 of the CAA, 42 U.S.C. § 7542:.

1. Copies of invoices provided to customers and fleet company names (if applicable) for all work performed by Cheyenne Diesel from January 1, 2019, through the date of this Request for Information including, but not limited to, the removal, bypass, or disabling of **emission related parts** or the use or installation of any **exhaust product** or **tuning product**.
2. Copies of related internal inventory tracking, such as quickbooks accounting for all work performed by Cheyenne Diesel from January 1, 2019, through the date of this Request for Information including, but not limited to, the removal, bypass, or disabling of **emission related parts** or the use or installation of any **exhaust product** or **tuning product**.
3. Copies of the invoices provided to customers for all **exhaust product** and **tuning product** sales by Cheyenne Diesel from January 1, 2019, through the date of this Request for Information.
4. Copy of related internal inventory tracking, such as quickbooks accounting for all **exhaust product** and **tuning product** sales by Cheyenne Diesel from January 1, 2019, through the date of this Request for Information.
5. Use the attached spreadsheet in Enclosure F to identify each **tuning product** Cheyenne Diesel manufactured, sold, offered for sale, or installed during the period from January 1, 2019, through the date of this letter, and provide the following for each:
 - a. Part Number, Item Code, or other unique identifier used by Cheyenne Diesel;
 - b. Product name;
 - c. Product description;
 - d. Product manufacturer (if different);
 - e. Identify the product's applications by vehicle type, make, model, and year;
 - f. Quantity sold during the period June 1, 2019, through the date of this Request for Information;
 - g. Average Cheyenne Diesel sale price;
 - h. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the EGR;
 - i. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the DPF;
 - j. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the catalyst;
 - k. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the NAC;

- l. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the SCR;
 - m. Indicate yes or no whether the product decreases the frequency or duration of DPF regenerations;
 - n. Indicate yes or no whether the product decreases the frequency or duration of DEF injection to the SCR;
 - o. Indicate yes or no whether the product alters ECM calibrations for fuel injection timing, quantities, pressure, air/fuel ratio, pulse width, or any combination thereof;
 - p. Indicate yes or no whether the product alters OBD parameters to prevent DTCs or MILs from being recorded or illuminated;
 - q. Indicate yes or no whether the product alters OBD parameters to prevent an engine derate or a limp home mode from being activated; and
 - r. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable).
6. For products that are identified in response to Requests 5 and 3:
- a. State whether Cheyenne Diesel or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

ENCLOSURE D

Confidential Business Information

An entity may assert a business confidentiality claim covering all or part of the information provided in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, entities are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. If no business confidentiality claim accompanies the response to this Request for Information when it is received by the EPA, then this information may be made available to the public without further notice. *See* 40 C.F.R. § 2.204(a)(3).

Pursuant to 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, the EPA may disclose information provided in response to this and other information requests to an EPA contractor, the Eastern Research Group, under contract number EP-W-15-006.

To assert a business confidentiality claim, an entity must place on (or attach to) all information subject to the claim either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time it provides its response to this Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and may be provided separately to facilitate identification and handling by the EPA. An entity should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208(a)-(d) and 2.301. Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

ENCLOSURE E

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 1 of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. 1001, 1341 and 1505.

Please print this page, Enclosure E, sign your name in wet ink, scan, and return electronically with the rest of the requested information.

(Signature)

(Printed Name)

(Title)

(Date)